

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on **Judiciary** recommends **SB 374** be amended on page 1, in line 36, after "basis" by inserting "by an appropriate state, county or private institution or facility";

On page 8, in line 16, after "(4)" by inserting "(A)"; in line 23, by striking all after the period; in line 24, by striking all before "that" and inserting "Within 30 days after receipt of such objection, the medical director of the treatment institution or facility shall certify to the court whether medication would aid in restoring the defendant's competency. The court shall set the matter for hearing within 30 days after receipt of such certification unless exceptional circumstances warrant delay. At such hearing, the prosecuting attorney has the burden to establish by clear and convincing evidence"; in line 25, after "(A)" by inserting "(i) The medication is substantially likely to render the defendant competent to stand trial;

(ii)";

Also on page 8, following line 33, by inserting:

"(B) The defendant shall be represented by counsel at a hearing conducted pursuant to subparagraph (A) but is not required to be present at the discretion of the court. The court shall permit the prosecuting attorney and the defendant to present evidence and witnesses relevant to the matter. The court may permit testimony through a two-way electronic audio-visual communication device. Any other proceeding related to the defendant's competency shall be suspended or continued pending a determination of the court under this paragraph. If the court makes a written finding that the prosecuting attorney has met the burden described in subparagraph (A), the court shall issue an order requiring the medication to be administered over

the defendant's objection. If the court makes a written finding that the prosecuting attorney has failed to meet such burden, the court shall order competency proceedings to resume.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 10, in line 22, by striking all after "(d)"; by striking all in lines 23 through 29; in line 30, by striking "(e)";

On page 11, in line 9, after "1" by inserting "through 3";

On page 12, in line 2, by striking "22-3305" and inserting "22-3303"; by striking all in lines 6 through 43;

By striking all on pages 13 and 14;

On page 15, by striking all in lines 1 through 10; following line 10, by inserting:

"Sec. 3. K.S.A. 59-2983 is hereby amended to read as follows: 59-2983. (a) Nothing in this act shall be construed to apply to any person alleged or thought to be a mentally ill person subject to involuntary commitment for care and treatment under this act who is in custody on a criminal charge, except with the consent of either the prosecuting attorney or trial court.

(b) (1) During an involuntary commitment proceeding initiated pursuant to article 33 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, the court shall consider the totality of the circumstances, including, but not limited to, prior convictions or adjudications, pending crimes allegedly committed by the criminal defendant and any presumption provided by paragraph (2).

(2) If such criminal defendant is charged with an off-grid or nondrug severity level 1 through 3 felony or a violation of K.S.A. 21-3504, 21-3511 or 21-3719, prior to their repeal, or K.S.A. 21-5506(b), 21-5508(b) or 21-5812(b), and amendments thereto, or an attempt, conspiracy or criminal solicitation of an offense described in this paragraph, there shall be a presumption that such criminal defendant is likely to cause harm to self or others whenever the

court is required to determine whether a criminal defendant is a mentally ill person subject to involuntary commitment for care and treatment under this act.

(3) A criminal defendant shall not be discharged from an involuntary commitment initiated pursuant to article 33 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, without the court conducting a hearing in accordance with this section and K.S.A. 59-2965(d), and amendments thereto, to determine whether such criminal defendant remains a mentally ill person subject to involuntary commitment for care and treatment under this act.";

Also on page 15, in line 11, by striking the first "and" and inserting a comma; also in line 11, by striking "K.S.A. 2025 Supp. 59-2946" and inserting "59-2983";

On page 1, in the title, in line 9, after the semicolon by inserting "requiring the court to make certain findings with respect to a person who is alleged to be mentally ill and subject to involuntary commitment for care and treatment when such person is also a criminal defendant;"; in line 10, by striking the first "and" and inserting a comma; also in line 10, by striking "K.S.A. 2025 Supp. 59-2946" and inserting "59-2983"; and the bill be passed as amended.

Chairperson